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RIXEY'S EX'RS *v.* COMMONWEALTH et al.

Nov. 26, 1919.

[101 S. E. 404.]

1. Taxation (§§ 109, 329*)—Taxpayer Not Relieved by Officials' Failure to Perform Duty.—Under Const. 1902, § 174, no dereliction of the examiners of records in failing to report the property, or of the commissioner of revenue in failing to assess it for taxation, can relieve any taxpayer of his own duty to list and return his taxable property for taxation; nor can such concurring failures and omissions relieve any of the property from its just proportion of the tax burdens, which are intended to be equal and uniform.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 92, 99.]

2. Taxation (§ 271*)—Intangible Property of Decedent.—Under Const. 1902, § 168, the segregated intangible property of estate of a decedent in the hands of his executors is taxable under Segregation Act of 1915, in the magisterial district in which decedent was last domiciled; the decedent, or his executors, being deemed residents thereof within the statute for purpose of taxation.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 101.]

3. Taxation (§ 844*)—Courts Have No Authority to Remit Penalties.—As penalties or interest are imposed by statute upon taxpayers who are in default, in order to insure prompt payment of taxes, which are necessary for the support of the government, the courts have no authority to relieve taxpayers therefrom.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 99.]

4. Taxation (§ 528*)—Interest on Unpaid Personal Property Tax; "Omitted Tax."—Where intangible personal property taxes were regularly assessed, taxpayer who refused to pay taxes was not required to pay interest thereon, since taxes, having been assessed, were not "omitted taxes," within Code 1904, § 508, as amended by Acts 1914, c. 279, Acts 1916, c. 491, and Acts 1918, c. 254, and since Code 1904, § 636, relating to interest on taxes, is applicable only to land.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 99.]

Error to Circuit Court, Culpeper County.

On petition for rehearing. Order set aside, in so far as it awards costs against plaintiff in error. Petition denied.

For former opinion, see 99 S. E. 573.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.